

Section 9501 of ARPA: COBRA Subsidy

- **What:** Waives cost of COBRA premiums for Assistance Eligible Individuals and covered dependents. Employers must cover **100%** of the employee's cost for COBRA for **up to 6 months**.
 - Paid by Federal government not employer (employer receives a tax credit)

- **Who:** Assistance Eligible Individuals are those who:

- elect COBRA continuation
- No need to apply* {
- Apply within 60 days of receiving notice* {
- (i) are either enrolled in COBRA;
 - (ii) did not elect COBRA when it initially became available to him/her; or
 - (iii) elected COBRA initially but let the coverage lapse
- are eligible for COBRA due to a qualifying event (i.e., reduction in hours or involuntary termination)
 - available only to employees whose initial (18-Month) COBRA period ends during or after the six-month period (4/1/21 to 9/30/21)
 - does not lengthen 18-month COBRA period

- **Who is excluded:**

- those who are terminated for gross misconduct
- those who quit
- employees who are eligible for group coverage through a new employer, spouse's health plan, or eligible for Medicare

- **When:** Covers premiums 4/1/21 through 9/30/21

- employer required to provide notice by 5/31/21

- **Potential Concerns:**

- severance agreements that provide only COBRA benefits as consideration for a release of claims due to the subsidy this may not be adequate consideration for a release
- if employee elects COBRA might be stuck with COBRA when the subsidy ends (possible that Biden administration will allow a marketplace special enrollment for those losing the COBRA subsidy)

- **Potential Exposure:**

- employers who do not provide the COBRA subsidy may be subject to a tax of up to \$100 per qualified beneficiary (\$200 cap per family) for each day of violating this requirement
- employees who do not notify the employer they are no longer eligible for the COBRA subsidy because they qualify for other types of coverage could face financial penalties

- **Additional Resources:**

- Department of Labor: <https://www.dol.gov/agencies/ebsa/laws-and-regulations/laws/cobra/premium-subsidy>
 - FAQs: <https://www.dol.gov/sites/dolgov/files/EBSA/about-ebsa/our-activities/resource-center/faqs/cobra-premium-assistance-under-arp.pdf>
- American Rescue Plan Act of 2021: <https://www.congress.gov/bill/117th-congress/house-bill/1319>